

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.9636 of 2005

Between:

M/s. Healing Touch Hospital (P) Ltd.,
rep. by its Managing Director Dr. Y. Ravinder Rao,
Near Clock Tower, Secunderabad.

..... PETITIONER

AND

1. Customs Excise and Service Tax Appellate Tribunal,
South Zonal Bench, FKCCI-WTC Building,
K.G.Road, Bangalore-560 009.

2. The Commissioner of Customs and Central Excise,

Hyderabad-II Commissionerate, L.B.Stadium Road,
Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of writ of Certiorari calling for the records relating to order dt. 3rd, January, 2005 in stay order No.1/2005 in stay petition No.C/Stay/133 of 2004 in Appeal No.C/Appeal No.275/2004 on the file of the Customs, Excise & Service Tax Appellate Tribunal South Zonal Bench, Bangalore and quash the same by holding it as illegal, bad and arbitrary and further direct the respondents to stay all further proceedings in pursuant to order in O.R.No.13/2003/Adjn.Cus dt. 26.3.2004 and to pass such other order or orders.

Counsel for the Petitioner : Sri J.R.MANO HAR RAO

Counsel for the Respondents : Sri A.RAJASHEKAR REDDY

Asst. Solicitor General

The Court made the following :

ORAL ORDER: (Per Hon'ble Sri Justice B.Sudershan Reddy)

It is evident from the impugned order dated

03-01-2005 that the application seeking stay pending appeal, has been disposed of in the absence of the petitioner and its counsel. The Tribunal clearly noted that the petitioner *"had prayed adjournment on past two occasions, which has been granted to them. Even today, none appeared on behalf of the appellant."*

We cannot ignore the finding recorded by the Tribunal in this regard. Learned counsel for the petitioner made an attempt to explain the circumstances under which the counsel could not be present on the said date of hearing when the application was disposed of by the Tribunal. It is not for us to consider that aspect of the matter.

Learned counsel however seeks leave of this Court to approach the Tribunal with an appropriate application for re-hearing of the application duly explaining the reasons for the absence of the counsel on the date of hearing. We accordingly grant leave to the petitioner to avail such remedies as may be available to it in law. The application, if any, to be filed by the petitioner shall have to be considered on its own merits uninfluenced by the dismissal of this writ petition.

The writ petition is accordingly dismissed.

B.SUDERSHAN REDDY, J

C.V.RAMULU, J

Note:

Furnish copy of the order by 29-04-2005

(b/o)

bsc

ASST. REGISTRAR

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SECTION OFFICER

To

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